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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/779,779	02/08/2001	Jean M. Goldschmidt Iki	42390P6482D	6746

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Gordon R. Lindeen III
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Seventh Floor
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Los Angeles, CA 90025-1026

EXAMINER

RAMAN, USHA

ART UNIT	PAPER NUMBER
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2424

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04/06/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: JEAN M. GOLDSCHMIDT IKI, ANTHONY A. SHAH-
NAZAROFF, CHRISTOPHER D. WILLIAMS, GREGORY D.
BUSCHECK and KENNETH ALAN MOORE

Application No. 09/779,779
Technology Center 2400

Mailed: April 3, 2009

Before KRISTA ZELE *Deputy Chief Appeals Administrator*
ZELE, *Deputy Chief Appeals Administrator.*

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on February 24, 2009. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matters requiring attention prior to docketing.

EXAMINER'S ANSWER

A review of the Examiner's Answer mailed on December 31, 2008, finds that the status of claims is different or unclear as compared to the Appeal Brief, filed October 6, 2008. Each claim on appeal must be identified. *See also Manual of Patent Examining Procedure* (MPEP) § 1205.02 (8th ed., Rev. 6, September 2007) for details.

Specifically, in the Non-final Rejection, mailed August 27, 2008, and in the "Grounds of Rejection" of the Answer, there is no reference to the status of claim 8, which as Appellants note in their Appeal Brief, is neither rejected nor allowed. In addition, in his "Grounds of Rejection" in the Answer, the Examiner does not list claims 23 and 24 as rejected under 35 U.S.C. § 103(a) over Schein et al. (U.S. PG Pub. 2006/0168620) in view of Rosser (U.S. Patent 6,446,261) and Ismail et al. (U.S. Patent 6,614,987), although Examiner argues that these two claims are indeed rejected, on page 8.

The Examiner has not indicated the status of claim 8, has improperly omitted claims 23 and 24 from his grounds of rejection under 103(a) and as a result, the correction of the status of all claims is required.

CONCLUSION

Accordingly, it is ORDERED that the application be returned to the Examiner:

- (1) to review the above inconsistencies to determine how to clarify the record;
- (2) to vacate the Examiner's Answer mailed December 31, 2008;

- (3) to generate a new Examiner's Answer setting forth the correct status of claims, the correct grounds of rejection and to correct other sections of the Answer as may be required;
- (4) to include the approval of the TC Director or his/her designee (as required for any possible new grounds of rejection); and
- (5) finally, for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

KZ/BIM

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